

REMARKS

Status of the Claims

By virtue of the Listing of Claims presented herein, claims 30-40 are pending. Claims 1-29 and 41-51 have canceled as directed to non-elected subject matter, without prejudice or disclaimer to pursue non-elected subject matter in one or more continuing or divisional applications.

Claim 30 has been amended as required by the Examiner to add a missing colon in the phrase "SEQ ID NO5", such that the phrase now reads, "SEQ ID NO:5. Claim 30 has also been amended to recite that the method comprises detecting an ob polypeptide, an immunogenic fragment thereof, an immunogenic derivative thereof, or an immunogenic analog thereof in a biological sample, and that the detecting comprises contacting the biological sample with an antibody that binds to an epitope of said ob polypeptide, immunogenic fragment thereof, immunogenic derivative thereof, or immunogenic analog thereof, said epitope having an amino acid sequence set out in SEQ ID NO:2, SEQ ID NO:4, SEQ ID NO:5, or SEQ ID NO:6, or an immunogenic fragment thereof, immunogenic derivative thereof, or immunogenic analog thereof. Basis for the amendment to add the inadvertently omitted colon may be found, for example, in paragraph [0037] of the publication of the instant patent application, publication number US 2004/0214214 (referred to throughout remainder of this paper) and in the sequence listing entry for SEQ ID: 5 on page 24, each of which identifies "SEQ ID NO:5" as an ob polypeptide as recited in the claims. Basis for the remaining amendments to the claim may be found, for example at paragraphs [0118] through [0123], which disclose, for example, that: ob polypeptides or fragments, derivatives, or analogs thereof, including fusion proteins, may be used as immunogens to generate antibodies that recognize an ob polypeptide (see, e.g., paragraph [0118]); procedures known in the art may be employed in order to produce such antibodies (see, e.g., paragraphs [0119] through [0122] and paragraphs [0125] and [0127]); procedures known in the art to select through routine screening procedures those antibodies that recognize specific epitopes on such ob polypeptides or fragments, derivatives, or analogs thereof, (see, e.g., paragraph [0123] through [0124]); procedures and methods known in the art for employing such antibodies in, for example, the claimed detecting, measuring, evaluating, diagnosing, and

monitoring methods.

Thus, no new matter has been introduced by the amendments to the claims.

Request to Rescind Applicant's Previous Traversal of Restriction Requirement

With respect to Applicant's previous election with traverse in response to the restriction requirement that was set forth by the Examiner in a previous Office Action, Applicant hereby requests that that portion the traversal that applies to the restriction between Groups I, II, III, IV, VII, VIII, IX, and X be rescinded. Accordingly, Applicant has canceled claims 1-29 and 41-51, which were previously withdrawn, as reflected in the attached Listing of Claims. Applicant's request to rescind Applicant's traversal of the restriction as it applies to the afore-mentioned Groups, and the cancellation of the claims encompassed by such Groups, is made without prejudice or disclaimer to the right to pursue non-elected subject matter in one or more continuing or divisional applications.

Objections to the Specification

In the instant Office Action, the Examiner reiterates the previous requirement to amend the title of the invention on the grounds that current title is not descriptive. Applicant previously responded to the initial requirement by requesting that the requirement be deferred until such time that a determination as to allowable of allowable subject matter is been provided. In the instant Action, the Examiner has refused this request, on the grounds that "Applicant has elected an invention for prosecution in the instant application. The title of the invention should reflect the claimed invention." Instant Office Action, page 3, second full paragraph. Applicant again submits that request for an amendment to the Title is unwarranted at this time insofar as, at least, the requirement to amend the title constitutes requirement as to form, and is not necessary to further consideration of the claims. Thus, holding the requirement in abeyance until allowable subject matter is indicated is well within the provisions of 37 C.F.R. 1.111(b). Nonetheless, without acquiescing to the Examiner's assertions as to the propriety for the continued requirement at this time, and in order to advance prosecution of the case towards conclusion, Applicant has amended the title of the invention as provided above. The amendment is made

with the understanding that the amendment does not limit the scope of the pending claims, and is also made without prejudice or disclaimer to further amend the title of the invention in accordance with the scope of any ultimately allowed claim or claims.

The Examiner has also objected to the statement:

All applications and patents are hereby incorporated by reference in their entirety.

on the grounds that this statement constitutes new matter. Without acquiescing to the allegation, Applicant has omitted this statement, as reflected above.

No new matter is introduced by way of the amendments to the specification described above do not constitute new matter insofar as the amendments finds basis, at least, in the claims as originally presented and throughout the specification as originally filed.

Claim Rejections

Rejection under 35 U.S.C. § 112, second paragraph:

Claims 30-40 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner alleges that “it is not clear what ‘represented by’ means,” as recited in the claims as amended in Applicant’s previous response.

Applicant submits that the rejection is rendered moot by virtue of the claims as amended herein, which recite that the recited antibody binds to an immunogenic epitope the recited ob polypeptide, immunogenic fragment thereof, immunogenic derivative thereof, or immunogenic analog thereof, which epitope has an amino acid sequence set out in SEQ ID NO:2, SEQ ID NO:4, SEQ ID NO:5, or SEQ ID NO:6 insofar as, at least, the metes and bounds of “which antibodies are encompassed by the claims” are readily evident by virtue of, at least the requirement that the recited antibody bind to an immunogenic epitope on the recited ob polypeptide species. In this regard, as mentioned above, the claims as amended enjoy ample enabling and descriptive support in the specification as filed in conjunction with knowledge available to the artisan at the time of the priority date of the instant application.

Applicant submit that the requirements of 35 U.S.C. § 112, second paragraph, are met with respect to claims 30-40 as amended herein. Accordingly, the rejection should be withdrawn.

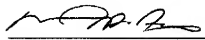
Conclusion

Applicants believe that all issues raised in the Office Action have been properly addressed in this response and in the amendments to the claims as shown in the attached Listing of Claims. If the Examiner feels that a telephone interview would serve to facilitate resolution of any outstanding issues, the examiner is encouraged to contact Applicants' representative at the telephone number below.

No additional fees are believed due for this submission. However, if a fee is due, the Commissioner is hereby authorized to charge payment of any fees associated with this communication, to Deposit Account 19-4293 referencing Docket No. 16454.0002 D2. Additionally, the Commissioner is hereby authorized to charge payment or credit overpayment of any fees during the pendency of this application to Deposit Account 19-4293.

Respectfully submitted,

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